

REMARKS

Applicants appreciate the thorough examination of the present application as evidenced by the Office Action of November 13, 2008 (hereinafter "Office Action"). By this Amendment, Applicants have canceled Claim 44 without prejudice to reduce the issues under consideration, and respectfully request further consideration of the present application for at least the reasons discussed below.

Withdrawal Of All Art Rejections Based on Sherman Is Respectfully Requested

Claim 44 is rejected under 35 USC §102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0128129 to Sherman ("Sherman"). Claims 1-5, 7, 9-13, 15-20, 23-24, 26-32, 34-35, 37 and 39-41 are rejected under 35 USC §103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0049388 to Roth et al ("Roth") in view of Sherman. Claims 6, 25, and 42 are rejected under 35 USC §103(a) as being unpatentable over Roth in view of Sherman and in further view of U.S. Patent Application Publication No. 2001/0014860 to Kivimaki ("Kivimaki"). Claims 9-13 and 28-32 are rejected under 35 USC §103(a) as being unpatentable over Roth in view of Sherman and in further view of PCT Publication No. WO 01/57851 to Freeland et al. ("Freeland"). Accordingly, Sherman is used for all art rejections presented in the Office Action. Sherman, however, is not prior art with respect to the present application for the reasons set forth in the attached Declaration (pursuant to 37 CFR 1.131).

In particular, Sherman is effective as a prior art reference as of December 11, 2002 (i.e., the filing date of Provisional patent application No. 60/432,958, from which Sherman claims priority). The present application claims the benefit of priority under 35 U.S.C. § 119 to European Patent Application No. 02445177.5, filed on December 16, 2002, and Applicants have established actual reduction to practice prior to December 11, 2002, as set forth in the attached Declaration (pursuant to 37 CFR 1.131). Moreover, prior invention may be established because reduction to practice of the invention occurred in Sweden, which is a WTO member country, in accordance with the requirements of 37 CFR §1.131(a). Accordingly, Sherman is not prior art with respect to the present application.

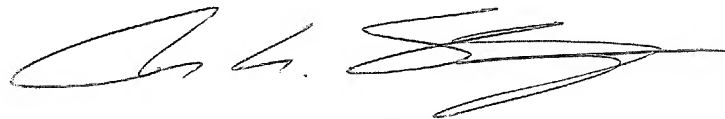
Because Sherman is not prior art with respect to the present application, Applicants respectfully request withdrawal of all prior art rejections of Claims 1-7, 9-13, 15-20, 23-32,

34-35, 37 and 39-42, and allowance of all claims. Applicants respectfully request that the Examiner contact the undersigned attorney if any additional issues regarding the art rejections and/or the Declaration should need to be addressed. Applicants have removed Sherman as prior art to advance prosecution of the present application to allowance without conceding any teaching of the cited art.

Conclusion

Accordingly, based on the above amendments and remarks, Applicants submit that the pending claims are now in condition for allowance. Thus, Applicants respectfully request allowance of these claims and passing the application to issue. Applicants encourage the Examiner to contact the undersigned to resolve any remaining issues.

Respectfully submitted,




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UNDER 37 CFR § 1.8**

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on April 8, 2009.



Audra Wooten